

HOUSE BILL 555

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 50,
relative to wages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 2, is amended by adding the following language as a new part:

50-2-301. This part shall be known and may be cited as the “Making Work Pay Act.”

50-2-302. As used in this part:

(1) “Commissioner” means the commissioner of labor and workforce development;

(2) “Department” means the department of labor and workforce development;

(3) “Employee” means any individual for whom an employer must complete a form I-9 pursuant to federal law and regulations, and does not include an independent contractor;

(4) “Employer” includes:

(A) An individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons, not involved in interstate commerce acting directly or indirectly in the interest of an employer in relation to an employee; and

(B) This state or any political subdivision that exercises governmental powers under the laws of this state and uses tax revenues;

(5) “Wages”:

(A) Means compensation paid to an employee in the form of legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; and

(B) Includes the reasonable cost to the employer, as determined by the commissioner, of furnishing meals or lodging to an employee, if the board or lodging is customarily furnished by the employer, and used by the employee; and

(6) "Workweek" means any period of one hundred sixty-eight (168) consecutive hours.

50-2-303.

(a) Every employer shall pay each employee wages at an hourly rate not less than the federal minimum wage established pursuant to the federal Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), as amended.

(b) Every employer shall pay each employee who works longer than forty (40) hours in any workweek at a rate of not less than one and one-half (1½) of the regular rate of pay of the employee for those hours in excess of forty (40) hours per workweek; provided, that employers of seasonal employment or seasonal workers are required to pay those employees the overtime rate only for hours in excess of forty-five (45) hours per workweek.

50-2-304. Every employer subject to this part shall keep a summary of this part, and any applicable wage orders and regulations as determined by the commissioner shall be posted in a conspicuous and accessible place in or about the premises of the employer's place of business to be regularly seen by employees.

50-2-305. Any employer who violates the minimum wage requirements of this part is liable to the employee or employees affected for the amount of unpaid minimum wages. When a judgment is rendered in favor of any employee or employees, in any action brought in any court of competent jurisdiction to recover unpaid wages under this part, the judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to the

wages as damages. The court shall, in addition to any judgment awarded to the employee or employees, require the defendant to pay court costs and reasonable attorney's fees incurred by the employee or employees. However, the employee or employees shall institute an action to recover within three (3) years from the date the wages should have been paid.

50-2-306. In the administration of this part, the commissioner shall cooperate, to the fullest extent consistent with this part, with the administrator of the wage and hour division of the United States department of labor.

50-2-307. Nothing in this part shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages in excess of the applicable minimum wage under this part.

50-2-308. Employees excluded pursuant to 29 U.S.C. § 213(a) are exempt from this part to the same extent the employees are exempt under federal law.

50-2-309. Within existing resources of the department, the commissioner shall promulgate rules to effectuate this part that are not inconsistent with the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.). All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2016, the public welfare requiring it.